UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1994/814
11 July 1994
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 8 JULY 1994 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to bring to your attention the latest attempts of the Iraqi regime and the methods used by it to evade its obligations as set forth in the Security Council resolutions relating to its aggression against the State of Kuwait, in particular resolutions 687 (1991) and 833 (1993). Iraq adopts this approach with a view to deceiving the international community by creating the illusion that its obligations are limited to divesting itself of weapons of mass destruction, by claiming that it has discharged those obligations and then calling upon the Security Council to mitigate the economic sanctions. In doing so it chooses to ignore those of its obligations that relate to the essence of the conflict, namely respect for the sovereignty, independence and international boundaries of Kuwait.

We set forth hereunder a number of facts that will shed light on the devious methods employed by Iraq in its attempts to circumvent the resolutions of the Security Council.

I. IRAQ'S LEGAL OBLIGATION TO RESPECT THE INDEPENDENCE AND SOVEREIGNTY OF KUWAIT

In his meetings with the members of the Security Council during his visit to New York in the second week of May 1994, Tariq Aziz, Deputy Prime Minister of the Iraqi regime, tried to convince them that Iraq had discharged its obligations with regard to Kuwait. He told them that as far as Iraq was concerned the issue was considered closed after the measures it had taken in implementation of paragraph 2 (a) of resolution 686 (1991) concerning the rescission of Iraq's annexation of Kuwait and with its acceptance of resolution 687 (1991) as embodied in documents S/22342 of 8 March 1991 and S/22480 of 11 April 1991.

In this regard we should like to state as follows:

1. The measure taken by Iraq on 28 February 1991 rescinding its annexation of Kuwait in implementation of paragraph 2 (a) of resolution 687 (1991) was an administrative measure that rescinded an administrative decision taken by Iraq

during its occupation of Kuwait. It does not represent any legal obligation on the part of Iraq to respect the sovereignty, independence and territorial integrity of Kuwait in accordance with the demand made in paragraph 2 of resolution 687 (1991) of 3 April 1991.

2. That Iraq has addressed itself to one of the particulars of the aforementioned resolution 686 (1991) does not by any means absolve it from the obligations set forth in the subsequent resolution 687 (1991). That resolution sets forth other obligations that were intended to form the major basis for a durable and official cease-fire. Foremost among these obligations is that set forth in paragraph 2 of the resolution, in which the Council demands that Iraq and Kuwait respect the inviolability of the international boundary and the sovereignty and independence of each State as set out in the Agreed Minutes of 1963.

Despite Iraq's unconditional acceptance of resolution 687 (1991), all of its actions indicate the reverse:

(a) It has not acknowledged or agreed to be bound by the sovereignty and independence of Kuwait;

(b) It maintains its refusal to accept resolution 833 (1993), in which the Council endorses the boundaries that were demarcated by the Commission established for that purpose.

The main demand relating to the essence of the conflict has thus not yet been met, and it cannot be complied with or settled as long as there is no official declaration from Iraq, confirmed by its legislative and executive authorities in accordance with the constitutional procedures in force, to the effect that it recognizes the State of Kuwait and its sovereignty within its international boundaries as endorsed by resolution 833 (1993).

3. Iraq gave official expression to its true attitude towards Kuwait in the letter dated 16 March 1994 from Tariq Aziz addressed to the President of the Security Council. It stated that the question of Kuwait should be discussed after the sanctions were lifted, when international circumstances were appropriate and in a regional context. This position was rejected by all the members of the Security Council, and they regarded it as a violation of Iraq's obligations under resolution 687 (1991). In our last periodic letter, issued as document S/1994/545 of 6 May 1994, we set forth in detail Kuwait's position with regard to that letter.

4. At the Ministerial Meeting of the Movement of Non-Aligned Countries held in Cairo from 31 May to 3 June 1994, Iraq expressed reservations with respect to that part of the final document in which the Ministers for Foreign Affairs stressed, inter alia, the full implementation of all the relevant Security Council resolutions as the way to achieve peace, security and stability in the region. The Ministers also called on Iraq to declare its acknowledgement of Kuwait's sovereignty, independence and territorial integrity and of the demarcation of its international boundaries and to do so clearly and unambiguously by accepting resolution 833 (1993) in order to create a positive climate that would achieve security and stability in the region.

This reservation doubtless provides further evidence to be added to Iraq's long record of evasion of its obligations and attempts to circumvent the resolutions of the Security Council, and it further reveals Iraq's true intentions.

5. Despite its assertions that it had met the requirements of paragraph 2 (a) of resolution 686 (1991) concerning the rescission of annexation, Iraq continued to reiterate its sophistries and false claims to Kuwait until very recently, and it only desisted when it became convinced of the seriousness of the Security Council's demand that it must relinquish those claims. Iraq was then forced to make use of this evident tactic so as not to be adversely affected in its manoeuvrings and its persistent efforts for the mitigation of the economic sanctions.

6. Iraq's pretence that its information media have begun to respond to the wishes of the Security Council for a halt to the sophistries that they employ in referring to Kuwait is, as we have said above, a purely tactical measure. This is confirmed by the fact that Iraq has not retracted or denied these claims and sophistries and has not issued any official statement indicating that it respects the sovereignty and independence of Kuwait and its international boundaries as endorsed by resolution 833 (1993).

7. Textbooks printed in 1992 and used in Iraqi schools still contain the fallacies indicated in our previous periodic letter addressed to the President of the Council on 4 May 1994 (S/1994/454), and the narratives contained in geography and history books remain unchanged. You must be aware of the danger posed by the sophistries contained in these books for the intellectual and emotional development of schoolchildren and for readers who represent future adults.

II. IRAQ'S COMMITMENT TO AND RESPECT FOR THE DEMARCATED BOUNDARIES AS ENDORSED BY RESOLUTION 833 (1993)

1. There has been no change in Iraq's position rejecting the demarcation of the boundaries, and this is entirely in keeping with its attitude towards the existence of Kuwait as a whole. Iraq confirmed its rejection of the results of the work of the Boundary Demarcation Commission in its letters of 27 August 1992 (S/24496) and 7 June 1993 (S/25905) addressed respectively to the President of the Security Council and the Secretary-General.

2. The Iraqi regime's insistence on not permitting its nationals to accept compensation is a policy that accords with its position rejecting the boundaries. This was pointed out by the Secretary-General in his letter to the President of the Security Council issued as document S/1994/240, where he reports Iraqi officials as having said that Iraq could not agree to compensation because allowing its nationals to accept would be an action that might tend "to recognize the injustice deliberately inflicted on Iraq", by which they meant the question of the boundary demarcation.

The available evidence indicating that the Iraqi regime is responsible for the refusal of compensation by farmers includes the following:

(a) Compensation of farmers by Iraq itself in the form of an "act of generosity by the Iraqi President" in the amount of 68 million Iraqi dinars, while farmers are not allowed to accept the amounts of compensation deposited with the United Nations by Kuwait. The Iraqi newspaper Al-Thawrah published this report on 10 June 1994;

(b) The failure of the Iraqi information media to publish the decision on compensation as requested;

(c) The statement made by the envoy of the Secretary-General, who visited the area and met the Iraqi farmers, that many of them had said that the Iraqi authorities were preventing them from receiving the compensation.

III. KUWAITI AND THIRD-COUNTRY PRISONERS AND DETAINEES

Despite the passage of more than three years since the adoption of Security Council resolution 687 (1991) and despite Iraq's official acceptance of that resolution, no progress has been made with regard to this humanitarian issue.

The Iraqi regime has time and again refused to attend meetings of the tripartite committee (which is made up of States members of the Coalition, Iraq and the International Committee of the Red Cross (ICRC) and deals with the question of prisoners and detainees) despite the many opportunities and long respites it has been granted. Although Iraq participated in the most recent meeting of the committee, held at Geneva on 1 July 1994, having boycotted it for a number of years and rejected its mandate and cast doubt on its legality, its participation was studiously tactical and was intended to create the illusion that it was cooperating in this humanitarian issue. Iraq's new tactic, exemplified by its nominal and low-level participation in the work of the tripartite committee, is intended to create the illusion that it is meeting its obligations under paragraph 30 of resolution 687 (1991) and to remove the prisoner issue from the Security Council during a time that Iraq considers crucial. Moreover, the Iraqi delegation that recently participated in the work of the tripartite committee produced nothing positive in connection with the prisoners' files but once again contented itself with casting doubt on the legality of those files. This confirms that Iraq's participation in the meeting in question had purely formal objectives. In addition, Iraq still refuses to allow ICRC to visit Iraqi prisons in accordance with the standard rules and procedures that govern its work. Iraq also has yet to respond to the official request made to it by ICRC for information on 625 individual files despite its prior undertaking to provide a reply on any file within 10 days of receiving such a request. (Iraq received the files in question in March 1993.) The Iraqi regime has thwarted all the inter-Arab and international efforts made to resolve this issue over the past three years, including the efforts of the Secretary-General of the League of Arab States and His Majesty King Hassan II.

Kuwait considers that, without the genuine and serious cooperation of Iraq with ICRC, without permission for ICRC to visit Iraqi prisons and without the provision of precise information by the Iraqi authorities on the prisoners' files in their possession, Iraq is to be regarded as being in fundamental breach

of the humanitarian obligations set forth in paragraph 30 of resolution 687 (1991).

In addition to the questions addressed above, Iraq continues to refuse to discharge its obligation with regard to compensation under section E of resolution 687 (1991) and still refuses to implement resolutions 706 (1991) and 712 (1991), a violation that is prejudicial to Iraqis and non-Iraqis alike. Moreover, Iraq has still not committed itself to the implementation of resolution 688 (1991), and the humanitarian dimension of this question cannot be ignored. The terrorist activities of the Iraqi regime during the past two years are also to be regarded as a flagrant violation of paragraph 32 of resolution 687 (1991), and they confirm that that regime continues to present a danger to regional and international security. Although Iraq is cooperating in a superficial manner in the return of property seized from the public and private sectors in Kuwait, it should be borne in mind that despite the items being returned by Iraq in conformity with its obligations under resolutions 686 (1991) and 687 (1991) the implementation of these two resolutions will be incomplete because most of the items handed over are damaged or destroyed by the Iraqi authorities and because those authorities insist that they are not responsible for the return of the property valued at hundreds of millions of dollars that was stolen from the private sector (S/1994/243).

The issues raised above are clear indications of Iraq's insistence on continuing to pursue a policy of defiance of Security Council resolutions inasmuch as the purpose of those resolutions is to guarantee full respect for the independence, sovereignty and territorial integrity of Kuwait. The international community must therefore take the necessary measures to ensure that Iraq complies with the letter and spirit of all the relevant Security Council resolutions. The Security Council must not limit itself to addressing the consequences of Iraq's invasion and occupation of Kuwait alone, but it must, primarily, address the Iraqi motives that underlay the invasion. In other words, the Security Council must reject any Iraqi claim that it is in compliance with the relevant Security Council resolutions until such time as it presents an authenticated instrument promulgated by its highest executive and legislative authority to the effect that it respects the sovereignty, independence and international boundaries of Kuwait in accordance with Security Council resolution 833 (1993). Failing this, the actions of the Iraqi regime will continue to represent a constant threat to security and peace in the region.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Mohammad A. ABULHASAN
Permanent Representative